

WILDCAT RIVER, NEW HAMPSHIRE

MAY 27 (legislative day, MAY 18), 1988.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1914]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1914) to designate the Wildcat River in the State of New Hampshire as a unit of the National Wild and Scenic Rivers System, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert in lieu thereof the following:

That in order to preserve and protect for present and future generations the outstanding scenic, natural, recreational, scientific, historic, and ecological values and the Wildcat River in the State of New Hampshire, section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)), amended, is further amended, by adding the following new paragraph at the end thereof:

"() WILDCAT RIVER NEW HAMPSHIRE.—A 14.51 mile segment including the following tributaries: Wildcat Brook, Bog Brook, and Great Brook (all as generally depicted on a map entitled 'Wildcat River', dated October 1987) to be administered as follows: those segments of the Wildcat River and its tributaries located within the boundary of the White Mountain National Forest (hereinafter referred to as 'the forest') shall be administered by the Secretary of Agriculture (hereinafter referred to as the 'Secretary'); those segments located outside the boundary of the forest shall be administered by the Secretary through a cooperative agreement with the Board of Selectmen of the Town of Jackson and the State of New Hampshire pursuant to section 10(e) of this Act. Such agreement shall provide for the long-term protection, preservation, and enhancement of the river segments located outside the boundary of the forest and shall be consistent with the July 1987 River Conservation Plan prepared by the Wildcat Brook Advisory Committee in conjunction with the National Park Service.

"(A) To assist in the implementation of this paragraph, the Secretary shall establish, within three months after the date of enactment of this subparagraph, a Wildcat River Advisory Commission. The Commission shall be composed of seven mem-

bers appointed by the Secretary as follows: one member from recommendations submitted by the Governor of the State of New Hampshire; four members from recommendations submitted by the Jackson Board of Selectmen, of which at least two members shall be riparian property owners, and at least one member shall be on the Board of Selectmen; one member from recommendations submitted by the Jackson Conservation Commission; and one member selected by the Secretary.

"(B) For the purposes of this paragraph, no lands or interests in lands outside of the boundary of the forest shall be acquired by the Secretary except by donation. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this paragraph."

Amend the title so as to read:

A bill to designate a segment of the Wildcat River in the State of New Hampshire as a component of the National Wild and Scenic Rivers System, and for other purposes."

PURPOSE OF THE MEASURE

The purpose of S. 1914 is to designate the Wildcat River in the State of New Hampshire as a unit of the National Wild and Scenic Rivers System.

BACKGROUND AND NEED

In 1984, Congress approved legislation which called for a study of the Wildcat Brook in northeastern New Hampshire for possible designation as a Wild and Scenic River. The Park Service released its draft report of the study in February 1988, and recommended that 14.51 miles of the Wildcat and its tributaries are eligible and suitable for inclusion in the National Wild and Scenic Rivers System.

The headwaters of the mainstem and two tributaries of the Wildcat are on the White Mountain National Forest. About half of the mainstem and the Great Brook tributary are outside the National Forest. In terms of miles, approximately 9 miles of mainstem and tributaries are within the National Forest, while approximately 5.5 miles are outside, flowing through private land and the Town of Jackson.

The Wildcat River is a typical headwater stream—glacially formed, shallow, clear and turbulent. It has deep, narrow V-shaped valleys, often with waterfalls. Jackson Falls drops 165 feet in a series of broad cascades over granitic ledges. The river area provides habitat for a rich variety of wildlife. Historically, the river was known as an excellent trout stream with a native trout population. Today it is periodically stocked by the State with brook trout.

The segments outside the National Forest flow through numerous properties, including public, commercial, recreational, residential, and agricultural lands. Various protection strategies—including conservation easements and zoning—have been successfully employed to protect the river as it flows through private land.

LEGISLATIVE HISTORY

S. 1914 was introduced by Senator Humphrey on December 3, 1987. A hearing was conducted by the Subcommittee on Public Lands, National Parks and Forests on April 19, 1988.

At the business meeting on May 18, 1988, the Senate Committee on Energy and Natural Resources ordered S. 1914, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on May 18, 1988, by unanimous vote of a quorum present, recommends that the Senate pass S. 1914 if amended, as described herein.

The Rollcall vote on reporting the measure was 19 yeas, 0 nays, as follows:

YEAS

Mr. Johnston
Mr. Bumpers*
Mr. Ford
Mr. Metzenbaum*
Mr. Melcher
Mr. Bradley
Mr. Bingaman
Mr. Wirth
Mr. Fowler
Mr. Conrad
Mr. McClure
Mr. Hatfield*
Mr. Weicker*
Mr. Domenici
Mr. Wallop
Mr. Murkowski
Mr. Nickles
Mr. Hecht
Mr. Evans

NAYS

* Indicates voted by proxy.

COMMITTEE AMENDMENTS

During the consideration of S. 1914, the Committee adopted an amendment in the nature of a substitute. This substitute amendment makes numerous technical, clarifying, and conforming changes to the bill as introduced but makes no substantive changes.

SUMMARY OF MEASURE

S. 1914, as ordered reported, would add a 14.51 mile segment including tributaries, of the Wildcat River in New Hampshire to the Wild and Scenic Rivers System. Segments of the river within the White Mountain National Forest will be administered by the Secretary of Agriculture. Segments outside the forest will be administered by the Secretary through a cooperative agreement with the Town of Jackson and the State of New Hampshire which will provide for the long-term protection, preservation and enhancement of such segments. The bill requires the Secretary to establish a seven-member advisory commission and provides that lands or interests

therein outside the Forest boundaries may only be acquired by donation.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 27, 1988.

Hon. J. BENNETT JOHNSTON, Jr.,
*Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1914, a bill to designate a segment of the Wildcat River in the State of New Hampshire as a component of the National Wild and Scenic Rivers System, and for other purposes, as ordered reported by the Senate Committee on Energy and Natural Resources, May 18, 1988.

S. 1914 would add approximately 14.5 miles of the Wildcat River to the wild and scenic river system. In addition, the bill would require the Secretary of Agriculture, within three months of the bill's enactment, to establish a Wildcat River Advisory Commission. Finally, S. 1914 would authorize the appropriation of whatever funds are necessary to cover the activities authorized in the bill.

Based on information provided by the Forest Service, CBO estimates that enactment of this bill would result in additional costs to the federal government totaling approximately \$300,000 over five years. These costs would be incurred for commission support, planning, administrative, and environmental protection activities.

Enactment of this bill would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM, *Acting Director.*

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1914. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact of personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1914, as reported.

EXECUTIVE COMMUNICATIONS

On March 31, 1988, the Committee on Energy and Natural Resources requested legislative reports from the Departments of Agri-

culture, Interior and the Office of Management and Budget setting forth executive views on S. 1914. These reports had not been received at the time the report on S. 1914 was filed. When the reports become available, the chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the appropriate agencies at the Subcommittee hearing follows:

STATEMENT OF GEORGE M. LEONARD, ASSOCIATE CHIEF, FOREST
SERVICE, U.S. DEPARTMENT OF AGRICULTURE

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE: Thank you for the opportunity to offer the Department of Agriculture's views on S. 1850, S. 1914, S. 1720, and H.R. 900.

S. 850 would designate a section of the Columbia River in Washington for a wild and scenic river study. S. 1914 would designate the Wildcat River as a component of the Wild and Scenic Rivers System. S. 1720 relates to segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia. H.R. 900 is identical to S. 1720 plus it includes a provision that would designate the Greenbrier River.

Over half of the Wild and Scenic Rivers in America are on National Forests. The Forest Service administers 29 designated rivers totaling over 2,200 miles. These rivers possess outstanding scenic, recreation, geologic, fish and wildlife, historic, cultural or other significant values. We strongly support the National Wild and Scenic Rivers System.

S. 1850—COLUMBIA RIVER STUDY

In regard to S. 1850, we defer to the Departments of the Interior and Army since its enactment would not affect this Department.

S. 1914—WILDCAT RIVER

The headwaters of the mainstem and two tributaries of the Wildcat are on the White Mountain National Forest. About half of the mainstem and the Great Brook tributary are outside the National Forest. Approximately 9 miles of mainstem and tributaries are within the National Forest, and approximately 5.5 miles are outside, flowing through private land and the Town of Jackson.

The Wildcat River is a typical headwater stream—glacially formed, shallow, clear, and turbulent. It has deep, narrow V-shaped valleys, often with waterfalls. Jackson Falls drop 165 feet in a series of broad cascades over granitic ledges.

The river area provides habitat for a rich variety of wildlife. Historically, the river was known as an excellent trout stream with a native trout population. Today it is periodically stocked by the State with brook trout.

The segments outside the National Forest flow through numerous properties, including public, commercial, recreational, residential, and agricultural lands. Various protection strategies—including conservation easements and zoning—have been successfully employed to protect the river as it flows through private land.

We support designation of only the segments of the Wildcat River and its tributaries within the White Mountain National

Forest. Designation would have no adverse affects on management of the Forest.

For the segments outside the National Forest, we recommend designation and administration under State or local authorities or inclusion in the National Wild and Scenic River System in accordance with section 2(a)(ii) of the Wild and Scenic Rivers Act. The Secretary of Agriculture should not have the management responsibility for the segments outside the National Forest. Local management is more appropriate. Our recommendation would eliminate the need for a complex management arrangement involving a long-term cooperative agreement between the Secretary of Agriculture, the Town of Jackson Selectmen, and the State of New Hampshire. The need for an Advisory Commission would also be eliminated. We are prepared to work with the appropriate State agencies to assure that management of the entire river is well coordinated.

H.R. 900 AND S. 1720—WEST VIRGINIA RIVERS

Titles I through V of H.R. 900 and S. 1720 would not directly affect the lands or programs administered by the Department of Agriculture, and we defer to the Departments of the Interior and Army for a recommendation regarding these titles. We recommend that Title VI of H.R. 900, regarding designation of 133 miles of the Greenbrier River, not be enacted.

We would, however, support the eventual inclusion of the Greenbrier in the National System through local and State initiative in accordance with section 2(a)(ii) of Wild and Scenic Rivers Act. If designated in this manner, the State would have the responsibility for administration of the river.

The State presently manages numerous recreation facilities within or close to the Greenbrier corridor. These include State forests, parks, a scenic railroad, a 75-mile hike and bike trail, and a Civil War battlefield. The Forest Service would cooperate with the State regarding management of National Forest System lands within the designated corridor.

Extensive public involvement by the Forest Service during a study of the river did not result in a consensus regarding Federal designation. Although there is support locally for designation of the Greenbrier River, there is also significant local concern regarding the need for flood control facilities. The Army Corps of Engineers is currently studying flood control alternatives. In addition, there is concern that management of the river by the Federal Government would include excessively restrictive land use controls on private land and acquisition by condemnation. Time should be allowed for the State and concerned individuals and organizations to determine if and how the river should be designated.

This concludes my statement. I would be happy to answer any questions you may have.

STATEMENT OF ROBERT STANTON, ASSOCIATE DIRECTOR, OPERATIONS,
NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and Members of the Committee, it is a pleasure to be here today to discuss S. 1914, a bill to designate the Wildcat

River in the State of New Hampshire as a unit of the National Wild and Scenic Rivers System.

S. 1914, if enacted, would designate a 14.51-mile segment of the Wildcat River, also known as Wildcat Brook, in New Hampshire, including its tributaries Little Wildcat Brook, Bog Brook, and Great Brook, as a component of the Wild and Scenic Rivers System. The river would be managed as part of the White Mountains National Forest, except that those segments located outside the forest boundary would be managed by the Forest Service through a cooperative agreement with the Town of Jackson and the State of New Hampshire.

Whereas neither the National Park Service nor any other bureau of the Department of the Interior is proposed to manage any portion of the river, we defer to the Secretary of Agriculture concerning the advisability of supporting or rejecting this measure. However, it would be appropriate, we believe, for us to comment on the proposal, since the Department of the Interior is reviewing a study of the river and its tributaries for possible inclusion within the National Wild and Scenic Rivers System pursuant to section 5(a) of the Wild and Scenic Rivers Act.

In June 1984, Congress designated the 14.51-mile stretch of the Wildcat for study, requiring the study to be completed in 6 years, with an interim report to Congress due in 3 years. A draft of the study report has been completed and after it has been reviewed by the Secretary, will be transmitted to Congress. The Department has not developed a recommendation with respect to whether the river is eligible or suitable for inclusion within the National Wild and Scenic Rivers System.

In conducting the river study, we worked with officials of the town, and assisted in the development of their River Conservation Plan. The plan has been implemented by the town of Jackson and encompasses a variety of conservation actions including conservation easements, land-use ordinances, and riverbank restoration activities to conserve the river values. The River Conservation Plan was prepared following the National Wild and Scenic Rivers System Final Revised Guidelines for Eligibility, Classification and Management of River Areas, published in the Federal Register. We believe the plan provides effective protection. We defer to the views of the U.S. Forest Service, however, as to whether an agreement between the Town and the Secretary of Agriculture, as called for in the bill, is appropriate.

Mr. Chairman, this concludes my formal presentation on this proposal. I would be pleased to respond to any questions you or other Members of the Committee may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1914, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

WILD AND SCENIC RIVERS ACT

AN ACT To provide a National Wild and Scenic Rivers System, and for other purposes

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SEC. 3. (a) The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

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() *WILDCAT RIVER, NEW HAMPSHIRE.*—A 14.51 mile segment including the following tributaries: Wildcat Brook, Bog Brook, and Great Brook (all as generally depicted on a map entitled "Wildcat River", dated October 1987) to be administered as follows: those segments of the Wildcat River and its tributaries located within the boundary of the White Mountain National Forest (hereinafter referred to as "the forest") shall be administered by the Secretary of Agriculture (hereinafter referred to as the "Secretary"); those segments located outside the boundary of the forest shall be administered by the Secretary through a cooperative agreement with the Board of Selectmen of the Town of Jackson and the State of New Hampshire pursuant to section 10(e) of this Act. Such agreement shall provide for the long-term protection, preservation, and enhancement of the river segments located outside the boundary of the forest and shall be consistent with the July 1987 River Conservation Plan prepared by the Wildcat Brook Advisory Committee in conjunction with the National Park Service.

(A) To assist in the implementation of this paragraph, the Secretary shall establish, within three months after the date of enactment of this subparagraph, a Wildcat River Advisory Commission. The Commission shall be composed of seven members appointed by the Secretary as follows: one member from recommendations submitted by the Governor of the State of New Hampshire; four members from recommendations submitted by the Jackson Board of Selectmen, of which at least two members shall be ripartian property owners, and at least one member shall be on the Board of Selectmen; one member from recommendations submitted by the Jackson Conservation Commission; and one member selected by the Secretary.

(B) For the purposes of this paragraph, no lands or interests in lands outside of the boundary of the forest shall be acquired by the Secretary except by donation. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this paragraph.